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LETTER DATED 28 JULY 1994 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to bring to your attention the attached letter dated 26 July 1994, addressed to me by His Excellency Mr. Omar Mustafa Muntasser, Secretary of the General People's Bureau for Foreign Liaison and International Cooperation of the Socialist People's Libyan Arab Jamahiriya.

(Signed) Boutros BOUTROS-GHALI

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Annex

[Original: Arabic]

Letter dated 26 July 1994 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General

I have the honour to transmit to you herewith a letter dated 26 July 1994 from Mr. Omar Mustafa Muntasser, Secretary of the General People's Committee for Foreign Liaison and International Cooperation.

(Signed) Mohamed A. AZWAI
Permanent Representative

Enclosure

[Original: Arabic]

Letter dated 26 July 1994 from the Secretary of the General People's Committee for Foreign Liaison and International Cooperation of the Socialist People's Libyan Arab Jamahiriya addressed to the Secretary-General

As you know, since the adoption of Security Council resolutions 731 (1992) and 748 (1992) the Libyan Arab Jamahiriya has spared no effort, in all sincerity and good faith, to resolve the ongoing dispute between it and the United States, the United Kingdom and France. This is a dispute that the Libyan Arab Jamahiriya did not wish to see arise in the first place; and it sees no logical basis for its continued existence, since it is built on mistaken premises, does not advance the legitimate interest of any party involved and is incompatible with the climate that currently prevails world wide.

For all these reasons, the Libyan Arab Jamahiriya has been anxious to strive by all available means to end this dispute in a manner that is in keeping with the norms and provisions of international law and in compliance with the letter and spirit of the resolutions adopted by the United Nations. The Libyan Arab Jamahiriya has left no stone unturned to find a way out of this problem, as has been demonstrated in my numerous communications with you.

For the past two years, the Libyan Arab Jamahiriya has endeavoured to cooperate closely with and to be responsive to the organs of the United Nations, particularly the Security Council, the Secretariat and the International Court of Justice. It has not limited this cooperation to particular areas but has made it the embodiment of a general position adopted by the Libyan Arab Jamahiriya in the belief that it is the duty of all States Members of the United Nations to show their good faith and demonstrate their readiness to deal with the Organization in a positive manner, even if outward appearances indicate that this may not necessarily be in keeping with their own interests, as long as such a course is not incompatible with the principles of sovereignty and the higher strategic interests of the country.

Let me here place on record the steps that the Libyan Arab Jamahiriya has taken in the context of this policy:

1. It has complied fully and unconditionally with the Judgment of the International Court of Justice issued on 3 February 1994 concerning its territorial dispute with Chad, and an agreement was subsequently signed by the two countries on 4 April 1994 concerning practical modalities for the implementation of the Judgment.

Accordingly, a joint statement was issued by the two countries on 30 May 1994 recording the completion of the withdrawal of all Libyan military and civilian personnel from the Aouzou Strip with effect from that date under the supervision of the United Nations Aouzou Strip Observer Group (UNASOG) and in a manner satisfactory to both parties.

In your report to the Security Council contained in document S/1994/672 you called attention to the manner in which the Libyan Arab Jamahiriya had acquitted itself and you commended its cooperation with UNASOG and the spirit of friendship that had been shown by the two countries.

2. Convinced of the importance of cooperating with the United Nations in the maintenance of international peace and security, the Libyan Arab Jamahiriya has declared in numerous letters addressed to you its total renunciation of terrorism in all its forms and its condemnation of all acts of terrorism. It has given expression to this clear position with a number of specific measures including, as purely indicative examples:

(a) The severance of contacts with all groups and factions involved in what are characterized as terrorist activities;

(b) The affirmation that there are no terrorist training camps or terrorist organizations in its territory. In this connection, the Libyan Arab Jamahiriya invited you to send a technical mission to ascertain this matter and, despite the absence thus far of any response to this objective and logical proposal, it renews its invitation for the dispatch of such a technical mission;

(c) Full cooperation by the Libyan Arab Jamahiriya, in demonstration of its good faith, with the Government of the United Kingdom in enhancing its capacity to counter terrorist activities. It has provided all of the information in its possession that might strengthen the capacity to counter and contain terrorism;

(d) The announcement by the Libyan Arab Jamahiriya of its complete readiness to cooperate with the French authorities investigating the UTA case and to provide all possible facilities to the French examining magistrate. Contacts continue to be maintained between the judicial authorities in the two countries with a view to reaching agreement on a programme to assist the French examining magistrate in completing his task.

3. There is no extradition agreement between the parties concerned, and all of the States that are parties to this dispute are legally bound by the provisions of a binding international convention that has entered into force, namely the 1971 Montreal Convention. Article 7 of the Convention stipulates that the Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, bring him to trial without delay. The Libyan Arab Jamahiriya has expressed its readiness to try the two suspects in Libya, and this is in keeping with the explicit provisions of article 7 of the Montreal Convention.

4. Despite all of the foregoing, and in an endeavour to reach a solution acceptable to all the parties, the Libyan Arab Jamahiriya can in principle accept the holding of the trial outside Libyan territory, provided that procedural guarantees can be provided to ensure a just and fair trial for the two accused. The Libyan Arab Jamahiriya is of the view that this can be achieved by the parties concerned accepting the proposal made by the secretariat of the League of Arab States and endorsed by the Council of the League in its resolution 5373 of 27 March 1994, which envisages the holding of the trial at

the seat of the International Court of Justice at The Hague by a Scottish court applying Scots Law.

It goes without saying that this proposal met with the support of the members of the Movement of Non-Aligned Countries at the Ministerial Meeting held in Cairo last month, and it was subsequently supported by the Assembly of Heads of State and Government of the Organization of African Unity, meeting in Tunis.

You will doubtless note that in adopting these positions the Libyan Arab Jamahiriya has gone as far as it is possible to go and has reached the end of the road in seeking a way out of this problem. It has accepted a situation that it was not obliged to accept in accordance with correct legal norms.

Accordingly, the Libyan Arab Jamahiriya proposes the following alternatives for addressing the judicial dimension of the crisis with a view to determining the responsibility of the two accused for the Lockerbie incident:

1. That the two suspects be brought to trial immediately in Libya, in public and with full guarantees to ensure the justice and fairness of the trial, including the acceptance of international observers;

2. That the trial be held in any Arab country to be agreed upon, either by the existing courts or by a special tribunal instituted for this purpose;

3. That the trial be held at the seat of the International Court of Justice at The Hague or at any United Nations premises on the European continent, without opposition to the trial being conducted by a Scottish court applying Scots Law. Should the countries concerned and the United Nations accept this proposal and notify the Libyan Arab Jamahiriya accordingly in an official manner, the Libyan Arab Jamahiriya expresses its readiness to provide all the guarantees necessary for its full and faithful implementation, to take all the steps required thereby, including the conclusion of agreements with the countries concerned, and to provide the necessary undertakings to you and to the President of the Security Council.

The Libyan Arab Jamahiriya requests you to inform the President of the Security Council of the contents of this letter and to establish whatever contacts you deem appropriate with a view to reaching agreement on the selection of one of the proposed alternatives.

(Signed) Omar Mustafa MUNTASSER
Secretary of the General People's Committee for
Foreign Liaison and International Cooperation